

111TH CONGRESS
1ST SESSION

S. 1511

To amend titles XVIII and XIX of the Social Security Act to improve awareness and access to colorectal cancer screening tests under the Medicare and Medicaid programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 23, 2009

Mr. CARDIN (for himself and Mr. GRAHAM) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend titles XVIII and XIX of the Social Security Act to improve awareness and access to colorectal cancer screening tests under the Medicare and Medicaid programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Supporting ColoRectal
5 Examination and Education Now (SCREEN) Act of
6 2009”.

1 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) A majority of the deaths and costs associ-
5 ated with colorectal cancer, the second leading cause
6 of cancer deaths in the United States, are avoidable
7 through timely preventive screening, including
8 colonoscopy.

9 (2) The United States Preventive Services Task
10 Force provides its only grade “A” recommendation
11 of cancer screenings for colorectal interventions.

12 (3) Colorectal cancer screening test rates are
13 far too low, with only 50 percent of recommended
14 populations receiving colorectal cancer screening
15 tests, and rates of such screening tests among mi-
16 norities and those without insurance lag consider-
17 ably.

18 (4) The colorectal cancer screening benefit
19 under the Medicare Program under title XVIII of
20 the Social Security Act is severely underutilized.

21 (5) Numerous barriers for patients, commu-
22 nities, and health care providers detrimentally affect
23 the utilization of colorectal cancer screening tests.
24 Such barriers include patient knowledge, coinsurance
25 burdens, restrictions on Medicare coverage for an of-

1 fice visit prior to a screening colonoscopy, and reduc-
 2 tions in Medicare reimbursement.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-
 4 gress that—

5 (1) if legislation to provide health insurance
 6 coverage, public or private, to persons under the age
 7 of 65, is enacted, coverage of colorectal cancer
 8 screening tests and the provisions of this Act should
 9 be included as part of any basic benefit package re-
 10 required under such legislation; and

11 (2) Congress, Federal agencies, State and local
 12 governments, health care providers, and patient
 13 groups should make a concerted and sustained effort
 14 to increase the rate of colorectal cancer screening
 15 tests.

16 **SEC. 3. COMMUNITY AND PATIENT INTERVENTIONS.**

17 (a) GRANT PROGRAM TO INCREASE COLORECTAL
 18 CANCER AWARENESS, SCREENING, AND TREATMENT.—

19 (1) DEFINITIONS.—In this subsection:

20 (A) COLORECTAL CANCER SCREENING
 21 TESTS.—The term “colorectal cancer screening
 22 test” has the meaning given such term in sec-
 23 tion 1861(pp)(1) of the Social Security Act (42
 24 U.S.C. 1395x(pp)(1)).

1 (B) INDIAN TRIBE.—The term “Indian
2 tribe” has the meaning given such term in sec-
3 tion 4 of the Indian Self-Determination and
4 Education Assistance Act (25 U.S.C. 450b).

5 (C) SECRETARY.—The term “Secretary”
6 means the Secretary of Health and Human
7 Services, acting through the Director of the
8 Centers for Disease Control and Prevention.

9 (D) STATE.—The term “State” means—
10 (i) a State; and
11 (ii) the District of Columbia.

12 (2) GRANTS AUTHORIZED.—The Secretary is
13 authorized to make grants to States and Indian
14 tribes for colorectal health programs. Such programs
15 may include the following:

16 (A) Provide colorectal cancer screening
17 tests, including colonoscopy, to individuals who
18 are over 50 years of age or who are determined
19 to be at high risk for such cancer.

20 (B) Provide case management and refer-
21 rals for medical treatment for individuals who
22 are provided colorectal cancer screening tests
23 under the program.

24 (C) Programs to ensure that individuals
25 who are provided colorectal cancer screening

1 tests under the program receive the full con-
 2 tinuum of follow up and cancer care, as appro-
 3 priate.

4 (D) Activities to improve the education,
 5 training, and skills of health professionals in
 6 the detection and treatment of colorectal can-
 7 cer.

8 (E) The development and dissemination of
 9 public information and education programs—

10 (i) for the detection and treatment of
 11 colorectal cancer; and

12 (ii) promoting the benefits of receiving
 13 colorectal cancer screening tests through
 14 the program.

15 (3) PRIORITY.—In making grants under para-
 16 graph (2), the Secretary shall give priority to States
 17 and Indian tribes that will use grant funds to pro-
 18 vide colorectal cancer screening tests to low-income
 19 individuals who lack adequate health insurance cov-
 20 erage with respect to such screening.

21 (4) EXISTING FUNDING AUTHORITY.—The Sec-
 22 retary shall make a grant under this section under
 23 an existing funding authority.

24 (b) BENEFICIARY REMINDERS FOR INCREASING
 25 COLORECTAL CANCER SCREENING TESTS.—

1 (1) DEFINITIONS.—In this subsection:

2 (A) COLORECTAL CANCER SCREENING
3 TESTS.—The term “colorectal cancer screening
4 test” has the meaning given such term in sec-
5 tion 1861(pp)(1) of the Social Security Act (42
6 U.S.C. 1395x(pp)(1)).

7 (B) MEDICARE BENEFICIARY.—The term
8 “Medicare beneficiary” means an individual en-
9 titled to, or enrolled for, benefits under part A
10 of title XVIII of the Social Security Act and en-
11 rolled for benefits under part B of such title.

12 (C) SECRETARY.—The term “Secretary”
13 means the Secretary of Health and Human
14 Services.

15 (2) ANNUAL NOTIFICATION UNDER THE MEDI-
16 CARE PROGRAM.—The Secretary shall establish a
17 program under which all Medicare beneficiaries are
18 notified annually about the coverage of colorectal
19 cancer screening tests under the Medicare program
20 under title XVIII of the Social Security Act. Under
21 the program, such notification—

22 (A) may be provided through direct mail or
23 direct electronic communications; and

24 (B) may accompany other information cur-
25 rently provided to such beneficiaries, including

1 marketing materials or information provided to
 2 enrollees by Medicare Advantage organizations
 3 under section 1852(c)(1) of the Social Security
 4 Act (42 U.S.C. 1395w-22) and information
 5 provided by PDP sponsors under section
 6 1860D-4(a)(1) of such Act (42 U.S.C. 1395w-
 7 104(a)(1)).

8 (3) STATE PLAN AMENDMENT UNDER MED-
 9 ICAID.—

10 (A) IN GENERAL.—Section 1902(a) of the
 11 Social Security Act (42 U.S.C. 1396a(a)), as
 12 amended by section 5006(e)(2)(A) of division B
 13 of the American Recovery and Reinvestment
 14 Act of 2009 (Public Law 111-5), is amended—

15 (i) in paragraph (72), by striking
 16 “and” at the end;

17 (ii) in paragraph (73)(B), by striking
 18 the period at the end and inserting “;
 19 and”; and

20 (iii) by inserting after paragraph (73),
 21 the following new paragraph:

22 “(74) if the State has elected to provide medical
 23 assistance described in section 1905(a)(13) and such
 24 assistance includes colorectal cancer screening tests,
 25 provide for the establishment of a program under

1 which individuals at risk for colon cancer, including
 2 minorities who are identified as at high-risk for
 3 colon cancer, who are over an age that the Secretary
 4 determines appropriate (based on the recommenda-
 5 tions of appropriate entities, including the United
 6 States Preventive Services Task Force and appro-
 7 priate medical specialty societies) are provided a no-
 8 tification of the availability of medical assistance for
 9 colorectal cancer screening tests and a reminder re-
 10 regarding the benefits of such tests.”.

11 (B) EFFECTIVE DATE.—

12 (i) IN GENERAL.—Except as provided
 13 in clause (ii), the amendments made by
 14 this paragraph take effect on January 1,
 15 2011.

16 (ii) EXTENSION OF EFFECTIVE DATE
 17 FOR STATE LAW AMENDMENT.—In the
 18 case of a State plan under title XIX of the
 19 Social Security Act (42 U.S.C. 1396 et
 20 seq.) which the Secretary of Health and
 21 Human Services determines requires State
 22 legislation in order for the plan to meet the
 23 additional requirements imposed by the
 24 amendments made by this paragraph, the
 25 State plan shall not be regarded as failing

1 to comply with the requirements of such
 2 title solely on the basis of its failure to
 3 meet these additional requirements before
 4 the first day of the first calendar quarter
 5 beginning after the close of the first reg-
 6 ular session of the State legislature that
 7 begins after the date of enactment of this
 8 Act. For purposes of the previous sentence,
 9 in the case of a State that has a 2-year
 10 legislative session, each year of the session
 11 is considered to be a separate regular ses-
 12 sion of the State legislature.

13 **SEC. 4. ELIMINATION OF COINSURANCE FOR COLORECTAL**
 14 **CANCER SCREENING TESTS.**

15 (a) IN GENERAL.—Section 1833(a)(1) of the Social
 16 Security Act (42 U.S.C. 1395l(a)(1)) is amended—

- 17 (1) by striking “and” before “(W)”;
- 18 (2) by inserting before the semicolon at the end
 19 the following: “, and (X) with respect to colorectal
 20 cancer screening tests (as defined in subsection
 21 (pp)), the amount paid shall be 100 percent of the
 22 lesser of the actual charge for the services or the
 23 amount determined under the fee schedule that ap-
 24 plies to such tests under this part”.

25 (b) CONFORMING AMENDMENTS.—

(1) SCREENING SIGMOIDOSCOPIES AND COLONOSCOPIES.—Section 1834(d) of the Social Security Act (42 U.S.C. 1395m(d)) is amended—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting “, except that payment for such tests under such section shall be 100 percent of the payment determined under such section for such tests” before the period at the end; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) in clause (i)—

(aa) by striking “(i) IN GENERAL.—Notwithstanding” and inserting “Notwithstanding”;

(bb) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively, and moving such clauses and the flush matter following such clauses 2 ems to the left; and

(cc) in the flush matter following clause (ii), as so redesign-

1 nated, by inserting “100 percent
2 of” after “based on”; and

3 (B) in paragraph (3)—

4 (i) in subparagraph (A), by inserting
5 “, except that payment for such tests
6 under such section shall be 100 percent of
7 the payment determined under such sec-
8 tion for such tests” before the period at
9 the end; and

10 (ii) in subparagraph (C)—

11 (I) by striking clause (ii); and

12 (II) in clause (i)—

13 (aa) by striking “(i) IN GEN-
14 ERAL.—Notwithstanding” and
15 inserting “Notwithstanding”; and

16 (bb) by inserting “100 per-
17 cent of” after “based on”.

18 (2) OUTPATIENT HOSPITAL SETTINGS.—Section
19 1833(t) of the Social Security Act (42 U.S.C.
20 1395l(t)) is amended—

21 (A) in paragraph (4)(C), by striking
22 “paragraph (8)(C)” and inserting “subpara-
23 graphs (C) and (F) of paragraph (8)”; and

24 (B) in paragraph (8), by adding at the end
25 the following new subparagraph:

1 “(F) NO COPAYMENT FOR COLORECTAL
 2 CANCER SCREENING TESTS.—The copayment
 3 amount that would otherwise apply under this
 4 subsection to colorectal cancer screening tests
 5 (as defined in section 1861(pp)) shall be re-
 6 duced to zero.”.

7 (c) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to items and services furnished on
 9 or after January 1, 2010.

10 **SEC. 5. MEDICARE ADVANTAGE REPORTING REQUIRE-**
 11 **MENTS.**

12 (a) IN GENERAL.—Section 1857(e) of the Social Se-
 13 curity Act (42 U.S.C. 1395w–27(e)) is amended by adding
 14 at the end the following new paragraph:

15 “(4) ANNUAL REPORTING REGARDING
 16 COLORECTAL CANCER SCREENING TESTS.—

17 “(A) IN GENERAL.—Not later than 6
 18 months after the date of enactment of this
 19 paragraph and annually thereafter, contract
 20 under this section with an MA organization
 21 shall require the organization to submit to the
 22 Secretary an annual report on the following:

23 “(i) The coverage of colorectal cancer
 24 screening tests (as defined in section
 25 1861(pp)) under each MA plan offered by

1 the organization, including the level of any
 2 coinsurance or copayments applicable for
 3 enrollees under the plan.

4 “(ii) Any educational outreach the or-
 5 ganization provides to enrollees, providers
 6 of services, and suppliers with respect to
 7 such tests.

8 “(iii) Any pay-for-performance incen-
 9 tives under MA plans offered by the orga-
 10 nization for providers of services and sup-
 11 pliers with respect to such tests, or any
 12 other financial-sharing program with pro-
 13 viders of services and suppliers with re-
 14 spect to such tests.

15 “(iv) The total number of enrollees
 16 furnished such tests during the preceding
 17 year, listed according to the specific test
 18 furnished, the type of facility in which the
 19 test was furnished, and the gender and
 20 race of the enrollees to whom such tests
 21 were furnished.

22 “(B) REPORT TO CONGRESS AND PUBLIC
 23 AVAILABILITY.—

24 “(i) REPORT.—The Secretary shall
 25 submit to Congress an annual report con-

1 taining information submitted in the an-
2 nual reports under subparagraph (A).

3 “(ii) PUBLIC AVAILABILITY.—The
4 Secretary shall make such information
5 available to the public, including by posting
6 such information on the Internet website of
7 the Centers for Medicare & Medicaid Serv-
8 ices.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to contracts entered into on or
11 after January 1, 2011.

12 **SEC. 6. PROVIDER INTERVENTIONS.**

13 (a) IN GENERAL.—Section 1834(d) of the Social Se-
14 curity Act (42 U.S.C. 1395m(d)) is amended by adding
15 at the end the following new paragraph:

16 “(4) PREVENTIVE SERVICE PAYMENT MODIFIED
17 FOR CERTAIN COLORECTAL CANCER SCREENING
18 TESTS.—

19 “(A) NATIONAL MINIMUM STANDARDS.—

20 The Secretary, in consultation with the Insti-
21 tute of Medicine, shall establish a national min-
22 imum standard for basic knowledge, training,
23 continuing education, and documentation for
24 suppliers who furnish colorectal cancer screen-
25 ing tests (as defined in subsection (pp)). For

1 purposes of this paragraph, a supplier shall be
 2 deemed to meet such national minimum stand-
 3 ards if the supplier is certified in gastro-
 4 enterology by the American Board of Internal
 5 Medicine.

6 “(B) PREVENTIVE SERVICE PAYMENT
 7 MODIFIER.—

8 “(i) DETERMINATION OF RATE
 9 GOALS.—The Secretary, in consultation
 10 with the United States Preventive Services
 11 Task Force, the Institute of Medicine
 12 Colorectal Cancer Working Group, and
 13 other clinical advisors as determined ap-
 14 propriate by the Secretary, shall determine
 15 age-based goal rates for colorectal cancer
 16 screening tests (as so defined) to be met or
 17 exceeded for beneficiaries under this part
 18 not later than July 1, 2010. Such age-
 19 based goal rates shall be consistent with
 20 the rates of screening for beneficiaries with
 21 respect to other cancer screening tests
 22 (such as screening mammography and cer-
 23 vical cancer screening).

24 “(ii) ESTABLISHMENT OF PREVEN-
 25 TIVE SERVICE MODIFIER FOR QUALIFIED

1 COLORECTAL CANCER SCREENING
2 TESTS.—

3 “(I) IN GENERAL.—The Sec-
4 retary shall establish an upward pre-
5 ventive service payment modifier for
6 qualifying colorectal cancer screening
7 tests furnished on or after January 1,
8 2010, which reflects the annual deter-
9 mination by the Secretary of the ap-
10 appropriate amount of additional pay-
11 ment (not less than 10 percent of the
12 amount of payment otherwise pro-
13 vided) sufficient to increase the rate
14 of colorectal cancer screening tests
15 furnished under this part to the goal
16 rates determined under clause (i). The
17 Secretary shall update such modified
18 on an annual basis, taking into con-
19 sideration the rate of colorectal cancer
20 screening tests furnished under this
21 part during the preceding year and
22 such goal rates.

23 “(II) QUALIFYING COLORECTAL
24 CANCER SCREENING TESTS.—For
25 purposes of subclause (I), the term

1 ‘qualifying colorectal cancer screening
 2 tests’ means a colorectal cancer
 3 screening test furnished by a supplier
 4 who meets the national minimum
 5 standards established under subpara-
 6 graph (A) (as determined by the Sec-
 7 retary).”.

8 (b) OUTPATIENT SETTINGS.—Section 1833(t) of the
 9 Social Security Act (42 U.S.C. 1395l(t)) is amended by
 10 adding at the end the following new paragraph:

11 “(18) IN GENERAL.—

12 “(A) NATIONAL MINIMUM STANDARDS.—

13 The Secretary, in consultation with the Insti-
 14 tute of Medicine, shall establish a national min-
 15 imum standard for basic knowledge, training,
 16 continuing education, and documentation for
 17 hospitals in outpatient settings which furnish
 18 colorectal cancer screening tests (as defined in
 19 subsection (pp)). For purposes of this para-
 20 graph, a hospital shall be deemed to meet such
 21 national minimum standards if the hospital is
 22 certified by the Joint Commission on the Ac-
 23 creditation of Healthcare Organizations, the Ac-
 24 creditation Association for Ambulatory Health

Care, or other accreditation body designated by the Secretary.

“(B) PREVENTIVE SERVICE PAYMENT MODIFIER.—

“(i) DETERMINATION OF RATE GOALS.—The Secretary, in consultation with the United States Preventive Services Task Force, the Institute of Medicine Colorectal Cancer Working Group, and other clinical advisors as determined appropriate by the Secretary, shall determine age-based goal rates for colorectal cancer screening tests (as so defined) to be met or exceeded for beneficiaries under this part not later than July 1, 2010. Such age-based goal rates shall be consistent with the rates of screening for beneficiaries with respect to other cancer screening tests (such as screening mammography and cervical cancer screening).

“(ii) ESTABLISHMENT OF PREVENTIVE SERVICE MODIFIER FOR QUALIFIED COLORECTAL CANCER SCREENING TESTS.—

1 “(I) IN GENERAL.—The Sec-
2 retary shall establish an upward pre-
3 ventive service payment modifier for
4 qualifying colorectal cancer screening
5 tests furnished on or after January 1,
6 2010, which reflects the annual deter-
7 mination by the Secretary of the ap-
8 propriate amount of additional pay-
9 ment (not less than 10 percent of the
10 amount of payment otherwise pro-
11 vided) sufficient to increase the rate
12 of colorectal cancer screening tests
13 furnished under this part to the goal
14 rates determined under clause (i). The
15 Secretary shall update such modifier
16 on an annual basis, taking into con-
17 sideration the rate of colorectal cancer
18 screening tests furnished under this
19 part during the preceding year and
20 such goal rates.

21 “(II) QUALIFYING COLORECTAL
22 CANCER SCREENING TESTS.—For
23 purposes of subclause (I), the term
24 ‘qualifying colorectal cancer screening
25 tests’ means a colorectal cancer

1 screening test furnished by a hospital
 2 in an outpatient setting which meets
 3 the national minimum standards es-
 4 tablished under subparagraph (A) (as
 5 determined by the Secretary).”.

6 (c) EFFECTIVE DATE.—The amendments made by
 7 this section shall apply to items and services furnished on
 8 or after January 1, 2010.

9 **SEC. 7. COVERAGE FOR AN OFFICE VISIT OR CONSULTA-**
 10 **TION PRIOR TO A QUALIFYING SCREENING**
 11 **COLONOSCOPY.**

12 (a) COVERAGE.—Section 1861(s)(2) of the Social Se-
 13 curity Act (42 U.S.C. 1395x(s)(2)) is amended—

14 (1) in subparagraph (DD), by striking “and” at
 15 the end;

16 (2) in subparagraph (EE), by inserting “and”
 17 at the end; and

18 (3) by adding at the end the following new sub-
 19 paragraph:

20 “(FF) an outpatient office visit or con-
 21 sultation for the purpose of beneficiary edu-
 22 cation, assuring selection of the proper screen-
 23 ing test, and securing information relating to
 24 the procedure and sedation of the beneficiary,
 25 prior to a colorectal cancer screening test con-

sisting of a screening colonoscopy or in conjunction with the beneficiary's decision to obtain such a screening, regardless of whether such screening is medically indicated with respect to the beneficiary;”.

(b) PAYMENT.—

(1) IN GENERAL.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)), as amended by section 4, is amended—

(A) by striking “and” before “(W)”;

(B) by inserting before the semicolon at the end the following: “, and (Y) with respect to an outpatient office visit or consultation under section 1861(s)(2)(BB), the amounts paid shall be 80 percent of the lesser of the actual charge or the amount established under section 1848”.

(2) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w-4(j)(3)) is amended by inserting “(2)(FF),” after “(2)(EE),”.

(3) REQUIREMENT FOR ESTABLISHMENT OF PAYMENT AMOUNT UNDER PHYSICIAN FEE SCHEDULE.—Section 1834(d) of the Social Security Act (42 U.S.C. 1395m(d)), as amended by section 6, is

1 amended by adding at the end the following new
2 paragraph:

3 “(5) PAYMENT FOR OUTPATIENT OFFICE VISIT
4 OR CONSULTATION PRIOR TO SCREENING
5 COLONOSCOPY.—With respect to an outpatient office
6 visit or consultation under section 1861(s)(2)(BB),
7 payment under section 1848 shall be consistent with
8 the payment amounts for CPT codes 99203 and
9 99243.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to items and services furnished on
12 or after January 1, 2010.

○